

DRAFT

**TOWN OF GILBERT
VARIANCE HEARING
MEETING MINUTES
90 E. CIVIC CENTER DRIVE
CONFERENCE ROOM 100
GILBERT, ARIZONA
DECEMBER 12, 2018
5:00 P.M.**

- 1. V18-03, WELL 30 EVANS WAY: REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.304 SITE DEVELOPMENT REGULATIONS TO REDUCE THE FRONT MINIMUM PERIMETER LANDSCAPE AREA REQUIREMENT FROM 25' TO 20'.**

ATTENDANCE: Brian Johns, Zoning Hearing Officer
Sydney Bethel, TOG Planning Department
Amy Temes, TOG Planning Department
Brad Richards, TOG Staff
Melanie Cohen, Carollo Engineers
Berenice Murillo, Carollo Engineers
Brian Bernard, Carollo Engineers
Debbie Frazey, Recording Secretary

Zoning Hearing Officer Brian Johns called the Variance Hearing to order at 5:05 p.m. for the December 12, 2018 Variance Hearing for V18-03, Well 30 Evans Way. He asked if any members of the public were in attendance. No members of the public were in attendance. He explained that they would first hear a presentation from Staff and invited Planner Sydney Bethel to begin.

Sydney Bethel began her presentation on V18-03, Well 30 Evans Way. She stated that she would be giving a brief overview and that after she finished, if the applicant had anything additional to add, they would be invited to do so. She shared a vicinity map indicating the location of the property at the southwest corner of Germann Road and Val Vista Drive. She said the site is zoned Shopping Center (SC) with a Planned Area Development (PAD). She discussed the surrounding area. She shared that the request is to deviate from Section 2.304 of the Land Development Code to reduce the front minimum perimeter landscape area requirement from 25' to 20' (see below).

Planning Commission
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Project Data Table

Site Development Regulations	Required per LDC and Ordinance No. 2299	Proposed
Minimum Required Perimeter Landscape Area (ft.)		
Front	25'	20'

She shared the history and background for the site. In 2008, the subject site was acquired by the Town of Gilbert and in 2009, construction began on the subject site and Well 30 was drilled. When construction began, the subject site was zoned Community Commercial (CC) with a PAD overlay, but the project was put on hold before completion. In 2010, the area and the subject site to the north were rezoned from Community Commercial (CC) with a PAD overlay to Shopping Center (SC) with a PAD overlay and that is the current zoning today. She said this is important because this changed the site development regulations, thus causing the request for a variance. She shared a visual representation of the request, noting the existing property line and the existing well site. She indicated the property line and pointed out that 25' is the current site development regulations for the front landscape setback.

Question: Brian Johns asked for clarification regarding the property line. He said that he had gone out to see the site, but it was difficult to determine.

Answer: Sydney Bethel said that there is a temporary fence and a permanent fence adjacent to the residential subdivision, as well as an existing wall up against the single family residence.

Answer: Brad Richards said he wanted to clarify that during the first phase of this project, the temporary fencing had been removed and the site has been cleared out.

Question: Brian Johns asked if the fence is even closer to Val Vista Drive right now.

Answer: Sydney Bethel answered affirmatively.

Question: Brian Johns asked to clarify that they are moving it back.

Answer: Sydney Bethel indicated on her visual representation where the 20' line would be located.

Question: Brian Johns sought to further clarify that there is nothing on the 20' or 25' line at this time.

Answer: Brad Richards said that there is currently nothing there. The permanent wall that they are building back to the 20' marker will have landscape to the east that fronts Val Vista, but it otherwise will be open space.

Question: Brian Johns asked why the 5' deviation was needed.

Answer: Brad Richards pointed out the existing well site on the property, indicating that it was drilled almost ten years ago.

Question: Brian Johns asked if it was for clearance around the well.

Answer: Brad Richards answered affirmatively. He said there is a lot of equipment staging in order to operate the well, so they needed more area to the east to be able to position that equipment for the operation of the well. He said there is also a sound enclosure, so the extra 5' will provide clearance.

Sydney Bethel resumed her presentation and shared the Site Plan. She shared the layout of the equipment that is needed to operate the well. She pointed out the existing well site and noted the line that would be the new wall at the 20' line and also shared the line that would have been required with the current site development regulations. She indicated that there is a concurrent design review case that can be approved administratively if this variance is approved. She said the design review case would allow for the construction of the perimeter fence, along with the access located to the west. She said they would have one gated vehicular fence, as well as a pedestrian access.

Planner Bethel then shared the four Findings of Fact that must be achieved to approve a variance:

FINDINGS

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;

Staff finds that special circumstances are present.

- When the construction on the well site began in 2009, the subject site was zoned Community Commercial (CC), but the site was rezoned in 2010 resulting in the current zoning of Shopping Center (SC).
- The current project is completing the well that was initially drilled in 2009 and the site must be designed around the initial drill site.

Staff finds that the strict application of the zoning ordinance would deprive the specific property of privileges enjoyed by similar property in the Shopping Center (SC) zoning district.

B. Such special circumstances were not created by the owner or applicants;

Staff finds that the special circumstances present are not "self-imposed".

When construction began on the site in 2009, it was following the site development regulations for Community Commercial (CC), thus why the originally selected location for

the well did not need relief from site development regulations. Due to the rezoning that occurred in 2010, the site is presently zoned Shopping Center (SC). Refer to the table below for site development regulations.

LDC 2.304 Site Development Regulations – Commercial Districts

Zoning District	Community Commercial (CC)	Shopping Center (SC)
Minimum Required Perimeter Landscape Area (ft.)		
Front	20'	25'

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

Staff finds the variance would not grant special privileges inconsistent with limitations on nearby or comparable properties.

- This subject site was selected for the use of a well site before the previous surrounding developments were constructed. She shared an aerial of the subject site in 2010 which indicated that the well site existed before the Villages at Val Vista development was built.
- The site follows all other site development regulations and is screened from public view and would not grant special privileges inconsistent with limitations on nearby or comparable properties.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.

- The well site will be screened with a site wall designed to match existing subdivision wall. She said that all items within the well site will be screened, except for an antenna that will project above, but that is common with all well sites.

Question: Brian Johns asked to clarify that the colors and materials would match.

Answer: Sydney Bethel answered affirmatively. She said the applicant has worked with Staff to make sure that they are matching the colors and materials of the surrounding area. She shared some renderings of the proposed wall.

Sydney Bethel finished her presentation by stating that Staff recommends approval of the Variance with two conditions.

STAFF RECOMMENDATION

Make the Findings of Fact and approve of V18-03, Well 30 Evans Way: a request to deviate from Section 2.304 to reduce the front minimum perimeter landscape area requirement from 25' to 20' for approximately 0.34 acres generally located at 4272 South Evans Way and zoned Shopping Center (SC) with a Planned Area Development (PAD) overlay, subject to conditions.

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.
2. The variance to reduce the front Minimum Required Perimeter Landscape Area for the Shopping Center (SC) zoning district from 25' to 20' for the subject site is permitted as shown on the Site Plan included as exhibit 5 in the attachments.

Question: Brian Johns asked which direction the picture in the back of the packet was taken from.

Answer: Sydney Bethel said that picture was taken looking east.

Question: Brian Johns asked to clarify that it was on the subdivision side.

Answer: Sydney Bethel answered affirmatively.

Question: Brian Johns asked if the landscape shown was in the subdivision.

Answer: Sydney Bethel answered affirmatively.

Question: Brian Johns asked if they had proposed landscaping for the 20' setback.

Answer: Sydney Bethel said they would be maintaining the existing landscaping along the residential side (around Red Rock Street), but they will also be adding landscaping adjacent to Val Vista and within the right-of-way. She said they are following all of the Town's landscaping requirements.

Question: Brian Johns asked if Staff supports all four Findings.

Answer: Sydney Bethel answered affirmatively.

ZHO Johns said that he had 10 days in which to make his decision, but he said that he agreed with Staff and each of the four Findings of Fact. He said he would finish his report and get it to Staff.

With no further business, Hearing Officer Johns adjourned the Variance Hearing at 5:17 p.m.

Brian Johns, Zoning Hearing Officer

ATTEST:

Debbie Frazey, Recording Secretary